

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No. 21318 OF 1998

Dated 11th July 2007

Between:

S. Rajeswar Rao S/o.Papa Rao

...Petitioner

and

The Govt.of A.P., rep. by its Secretary,
Home Department, Secretariat, Hyderabad & others

...Respondents

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WRIT PETITION No. 21318 OF 1998

ORDER:

The petitioner is a former MLA from Mulugu Constituency of Warangal District. He filed this writ petition, with a prayer to direct the respondents herein, to ensure that the fundamental rights of the petitioner and his family members are safeguarded, by providing security to their person and property, or in the alternative, to direct the State to acquire the properties belonging to the members of the family, under the Land Acquisition Act by paying compensation.

In the affidavit filed in support of the writ petition, it is stated that the family of the petitioner holds Acs.287.07 guntas of land, and an extent of Acs.32-27 gts was surrendered as surplus, under the A.P. Land Reforms (Ceiling on Agricultural Holdings) Act 1973. Out of the remaining Acs.254-00, an extent of Acs.66-20 guntas was said to have been sold, by the time the writ petition was filed. It is alleged that an extent of Acs.30-00 of land was forcibly occupied by the villagers, and the extremists in the area have

killed one of the sons of the petitioner, by name Satyanarayana Rao. The petitioner contends that in view of these developments, the family was forced to leave the village, and no agricultural activities could be carried on. The loss is estimated at several lakhs, and all this is attributed to the alleged lapses on the part of the State, in providing security to the person and property of the petitioner and his family.

The Superintendent of Police filed a counter affidavit on behalf of the 3rd respondent, the Director General of Police. It is alleged that the petitioner and his family members have left their native place and have acquired properties at Kazipet, Visakhapatnam and Hyderabad, which are said to be yielding the rents. One son of the petitioner is said to be doing contracts, worth crores of rupees, in various part of the state. As regards the murder of the son of the petitioner, by name Satyanarayana Rao, it is stated that the deceased and his brother Venkateswara Rao were prominent leaders of PDSU, a frontal organisation of CPI(M), an extremist group, CPI(M). It is stated Sri Venkateswara Rao was elected as President of the Panchayat Samithi, Mulugu, in the year 1981, with the direct support of an extremist group and subsequently, on account of differences, the extremists have murdered Satyanarayana Rao. It is stated that the petitioner himself was a communist in the beginning, and subsequently, he changed his political affiliation. The allegation as to occupation of Acs.30-00 of land is denied, and it is alleged that the family of the petitioner has voluntarily donated the land to the deserving poor people. No complaint is said to have been made, alleging any encroachment or trespass into the lands of the petitioner. It is further stated that the petitioner was given a gunman for his protection, and that none of his family members are facing any threat,

at present.

Sri S.Niranjan Reddy, learned counsel for the petitioner, submits that it is the duty of the State, to extend protection to the citizens, to lead a peaceful life, and the respondents have miserably failed, in extending protection to the petitioner and his family members. He submits that if the State is unable to extend the minimum protection, to enable a citizen to enjoy his property, it must at least take over the property, by paying compensation.

Learned Government Pleader for Home submits that the petitioner was extended all possible protection and that the petitioner and his family have left the village to do lucrative businesses in the cities. He further contends that the state had paid *ex-gratia*, whenever any citizen has suffered loss of life and property, in the hands of extremists, and filed various proceedings, in support of his contention.

It hardly needs any emphasis that the state is under obligation to protect the life and property of its citizens. In fact, the very existence of the departments like Police, are only for this purpose. Howsoever fundamental and legal it is, the extent of protection and the manner, in which it must be extended, cannot be defined with precision. Whenever the extreme situations develop, the State has to gear up its machinery to meet these challenges, and this process would naturally take some time.

The respondents also do not dispute that the menace of extremism has claimed lives and resulted in damages to the property in places like Warangal. On the one hand, the state made its effort to control the extremism, and on the other hand, it compensated the loss of life or property, to the extent possible.

Coming to the case of the petitioner, his grievance is that he was prevented from carrying on agriculture in his village, and on that account, he seeks the relief referred to above. It may look somewhat strange that the complaint had come from a person, who staunchly professed communism, and at the same time, held hundreds of acres of agricultural land. Judicial notice can be taken note of the fact that even when there was no extremist activities, the leaders and followers of the communism denounced holding of such a vast extents of land and instigated forcible occupation of lands. May be, in a different scale, but the practice even as of now.

Secondly, the petitioner did not submit any complaint before any authority, or the court, alleging trespass into his lands, or forcible eviction. The averment in the counter affidavit that the petitioner and his sons have migrated to cities and are holding valuable properties, which are yielding income and are doing contracts worth several crores of rupees, remains unrebutted. The affidavit is silent, as to the nature of steps taken by the petitioner, when his lands are said to have been occupied by the villagers. As a law abiding citizen, he ought to have initiated proceedings against the persons, who are defeating his rights. By citing unspecified instances of occupation of a portion of land, the petitioner cannot compel the State to acquire his lands. The object of Land Acquisition Act is to provide for initiation of proceedings, whenever any land is needed for public purpose. The Act cannot be invoked to pay compensation to a person, who is otherwise not able to manage his property.

So far as the personal protection is concerned, it is stated that the petitioner has already been provided a gunmen and that none of the members of the family are residing in the village.

Viewed from any angle, this court does not find any basis to grant the relief prayed for.

The writ petition is accordingly dismissed. It is, however, made clear that as and when the petitioner makes any complaint, as regards any specific incident, the respondents shall take necessary steps, in accordance with law. There shall be no order as to costs.

(L.NARASIMHA REDDY, J)

Dt: 11th July 2007

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